

Exhibit 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

Jonathan R., minor, by Next :
Friend, Sarah Dixon, et al., :
:
Plaintiffs, : Class Action
:
v. : 3:19-cv-00710
:
Jim Justice, in his official :
capacity as the Governor of :
West Virginia, et al., :
:
Defendants. :

VIDEOCONFERENCE DEPOSITION OF JANET FLORY

DATE: October 23, 2020
TIME: 9:01 a.m. to 2:59 p.m.
LOCATION: Witness Location

REPORTED BY: Felicia A. Newland, CSR

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Washington, D.C. 20005

<p style="text-align: right;">Page 18</p> <p>1 MS. MAHONEY: Objection.</p> <p>2 THE WITNESS: It depended on the</p> <p>3 position I was in and the period of time. The</p> <p>4 times that I did review cases most often had to do</p> <p>5 with fatalities or critical incidents.</p> <p>6 BY MS. SMITH:</p> <p>7 Q And when was that?</p> <p>8 What role were you in when you were</p> <p>9 doing that?</p> <p>10 A That happened -- again, are we</p> <p>11 talking just about the '90s or more recently?</p> <p>12 Q Let's talk first about your time in</p> <p>13 Hamilton County.</p> <p>14 A In Hamilton County, in my position, I</p> <p>15 did review cases most often with -- where there</p> <p>16 were fatalities or there were highly unusual or</p> <p>17 serious critical incidents.</p> <p>18 Q And when you were reviewing the</p> <p>19 cases, were you serving in the role as a</p> <p>20 caseworker?</p> <p>21 A I was not.</p> <p>22 Q Were you serving in the role as a</p>	<p style="text-align: right;">Page 20</p> <p>1 manager.</p> <p>2 Q Was there a time that you would speak</p> <p>3 with the child?</p> <p>4 A Well, again, many of these were</p> <p>5 fatalities.</p> <p>6 Q Okay. Would you speak with the</p> <p>7 providers of the child?</p> <p>8 A There were times when that would</p> <p>9 happen, yes.</p> <p>10 Q Are -- how many cases a year would</p> <p>11 you say that you reviewed?</p> <p>12 MS. MAHONEY: Objection. Vague.</p> <p>13 THE WITNESS: I can't really --</p> <p>14 again, this is a very long time ago and I can't</p> <p>15 really give an estimate.</p> <p>16 BY MS. SMITH:</p> <p>17 Q When you were in Cuyahoga County, did</p> <p>18 you also review case files?</p> <p>19 A I'm not remembering. I was in a</p> <p>20 different role. As a member of the executive team,</p> <p>21 I would have been involved in reviews of some</p> <p>22 cases, but not in the same way as in Hamilton</p>
<p style="text-align: right;">Page 19</p> <p>1 supervisor?</p> <p>2 A No.</p> <p>3 Q What role were you serving in?</p> <p>4 A I was the deputy director responsible</p> <p>5 for children services within the department.</p> <p>6 Q And so when you were -- when you were</p> <p>7 reviewing these case files, what were you looking</p> <p>8 for?</p> <p>9 A I was looking for, first of all,</p> <p>10 whether or not a particular case had been conducted</p> <p>11 within the practice and policy guidelines of the</p> <p>12 department. I was looking for individual worker</p> <p>13 actions, supervisory actions. I was also looking</p> <p>14 for systemic issues that might be present and</p> <p>15 relevant in the case.</p> <p>16 Q So when you were reviewing those case</p> <p>17 files, did you also interview people involved with</p> <p>18 those cases?</p> <p>19 A I did.</p> <p>20 Q Who did you interview?</p> <p>21 A Most often it would have been the</p> <p>22 caseworker, the supervisor, and perhaps the</p>	<p style="text-align: right;">Page 21</p> <p>1 County.</p> <p>2 Q And when you say "involved in the</p> <p>3 reviews of some kind of cases," what was your --</p> <p>4 what was your role or why were you reviewing those</p> <p>5 cases?</p> <p>6 A Most often, again, because they were</p> <p>7 high-profile cases or they were fatalities or they</p> <p>8 were critical incident cases, or it could have been</p> <p>9 that there was a particular issue that had come up</p> <p>10 and we were looking at a sample of cases.</p> <p>11 Q And when you did those case reviews</p> <p>12 in Cuyahoga County, did you interview people</p> <p>13 involved with the case?</p> <p>14 A I don't remember.</p> <p>15 Q When was the last time that you made</p> <p>16 an entry in a child's case file?</p> <p>17 A I can't remember that I have.</p> <p>18 Q Did you make entries in children's</p> <p>19 case files when you were a foster care worker in</p> <p>20 Detroit?</p> <p>21 A I imagine I did. As you might guess,</p> <p>22 those were days of paper files.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q Okay. But since then you don't</p> <p>2 remember -- you don't remember making an entry?</p> <p>3 A I do not.</p> <p>4 Q Why did you leave Ohio?</p> <p>5 MS. MAHONEY: Objection. Vague.</p> <p>6 THE WITNESS: There was a change of</p> <p>7 leadership in Cuyahoga County. I was recruited to</p> <p>8 take a position with a private agency in New York</p> <p>9 City. It was a very exciting opportunity, and I</p> <p>10 left Ohio to go to New York City.</p> <p>11 BY MS. SMITH:</p> <p>12 Q You served as the deputy commissioner</p> <p>13 for Child Protection Services for the New York City</p> <p>14 Administration for Children's Services. Is that</p> <p>15 right?</p> <p>16 A Correct.</p> <p>17 Q And how large was that system when</p> <p>18 you were there?</p> <p>19 A Very large. I was responsible for</p> <p>20 the division of child protection. We had</p> <p>21 approximately 60,000 reports of child abuse and</p> <p>22 neglect a year.</p>	<p style="text-align: right;">Page 24</p> <p>1 BY MS. SMITH:</p> <p>2 Q And so you were reviewing case files</p> <p>3 when you were at the New York City Administration</p> <p>4 for Children's Services, did you also interview</p> <p>5 individuals involved with those cases?</p> <p>6 A There were times when I did, yes.</p> <p>7 Q And who would you interview?</p> <p>8 A Well, it was a part of the protocol</p> <p>9 that we set up to review such cases, so there were</p> <p>10 times when the caseworker, the supervisor,</p> <p>11 managers, private providers were a part of those</p> <p>12 interviews.</p> <p>13 Q And so did you use that as a</p> <p>14 standardized review tool when you were reviewing</p> <p>15 those cases?</p> <p>16 A Not as such, no.</p> <p>17 Q What did you use when you were</p> <p>18 reviewing the cases or how did you go about</p> <p>19 reviewing the cases?</p> <p>20 MS. MAHONEY: Objection.</p> <p>21 THE WITNESS: I would review the case</p> <p>22 record. I would review other documents that had to</p>
<p style="text-align: right;">Page 23</p> <p>1 Q And did you review children's case</p> <p>2 files when you were in that role?</p> <p>3 A I did.</p> <p>4 Q And what was the purpose of your</p> <p>5 review?</p> <p>6 A Again, as in Ohio, I certainly was</p> <p>7 involved in case reviews when there were fatalities</p> <p>8 or serious critical incident cases. I also --</p> <p>9 these were summaries of case files, but we</p> <p>10 instituted something called ChildStat. And once a</p> <p>11 week we reviewed and discussed two cases every</p> <p>12 week.</p> <p>13 Q And I'm sorry, were these 60,000</p> <p>14 children you mentioned, were they in custody?</p> <p>15 A I --</p> <p>16 MS. MAHONEY: Objection. Misstates</p> <p>17 prior testimony.</p> <p>18 THE WITNESS: Sorry.</p> <p>19 MS. MAHONEY: You can answer, Jan.</p> <p>20 THE WITNESS: No. These were -- the</p> <p>21 60,000 were reports that came to the department</p> <p>22 that required an investigation or an assessment.</p>	<p style="text-align: right;">Page 25</p> <p>1 do with the case. I would look at data that were</p> <p>2 related to the case in question. And we had a</p> <p>3 process whereby we would meet with the staff</p> <p>4 involved with the case. And there were -- you're</p> <p>5 saying interview, I would say we had discussions</p> <p>6 with the staff who were responsible for that case</p> <p>7 and questions were raised and discussed during</p> <p>8 those meetings.</p> <p>9 BY MS. SMITH:</p> <p>10 Q Were there times that you reviewed</p> <p>11 case files where you did not discuss the case with</p> <p>12 individuals involved with that case?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 THE WITNESS: Yes, probably so.</p> <p>15 BY MS. SMITH:</p> <p>16 Q What were the circumstances when you</p> <p>17 would not discuss the case with other individuals</p> <p>18 involved in the case?</p> <p>19 A Well, the -- the incident that comes</p> <p>20 to mind would be when employees were terminated or</p> <p>21 put on leave as a result of actions that they had</p> <p>22 taken on a case.</p>

<p style="text-align: right;">Page 42</p> <p>1 BY MS. SMITH:</p> <p>2 Q I'm going to introduce that on</p> <p>3 Exhibit Share. And do you have your report in</p> <p>4 front of you?</p> <p>5 A I do.</p> <p>6 Q Okay. And this is titled, "The Child</p> <p>7 Welfare Case Review, Expert Opinions, Susan Getman,</p> <p>8 Janet Flory, & Elsa Popchak." Is that right?</p> <p>9 A Yes.</p> <p>10 Q And you recognize this report?</p> <p>11 A I do.</p> <p>12 Q Are you aware that last week we spoke</p> <p>13 with both Ms. Getman and Ms. Popchak?</p> <p>14 A I am.</p> <p>15 Q So they answered a lot of our</p> <p>16 questions about the process that you used to</p> <p>17 prepare this report, so I don't think we need to go</p> <p>18 over all of that again today with you, but I would</p> <p>19 like to confirm some of what we've learned with</p> <p>20 them.</p> <p>21 So you reviewed three case files,</p> <p>22 correct?</p>	<p style="text-align: right;">Page 44</p> <p>1 report written by your co-authors of the other six</p> <p>2 children, did you?</p> <p>3 A No.</p> <p>4 Q So there's approximately 300 pages of</p> <p>5 this report that you have not read?</p> <p>6 MS. MAHONEY: Objection.</p> <p>7 THE WITNESS: I -- yes, I did not</p> <p>8 read them prior to having this entire document.</p> <p>9 BY MS. SMITH:</p> <p>10 Q Have you read them since having the</p> <p>11 entire document?</p> <p>12 A I have scanned some of them, yes.</p> <p>13 MS. MAHONEY: I just want to clarify,</p> <p>14 are you asking about her review of the case files</p> <p>15 of the other six children or of the pages of the</p> <p>16 expert report?</p> <p>17 MS. SMITH: The pages of the expert</p> <p>18 report.</p> <p>19 THE WITNESS: The summary or the</p> <p>20 actual cases?</p> <p>21 BY MS. SMITH:</p> <p>22 Q So my first -- I thought we had -- I</p>
<p style="text-align: right;">Page 43</p> <p>1 A Yes.</p> <p>2 Q You reviewed Anastasia's case file,</p> <p>3 Karter's case file and Dennis' case file?</p> <p>4 A Correct.</p> <p>5 Q Okay. And you were asked to write</p> <p>6 reports summarizing and drawing conclusions about</p> <p>7 each of those three case files. Is that right?</p> <p>8 A Yes.</p> <p>9 Q And in the executive summary, you,</p> <p>10 Ms. Getman, and Ms. Popchak summarized your</p> <p>11 collective conclusions on the case files of the</p> <p>12 nine children. Is that right?</p> <p>13 MS. MAHONEY: Objection.</p> <p>14 THE WITNESS: Can you rephrase the</p> <p>15 question, please?</p> <p>16 BY MS. SMITH:</p> <p>17 Q In the executive summary, you,</p> <p>18 Ms. Getman, and Ms. Popchak, you summarized your</p> <p>19 conclusions about your reviews of the nine case</p> <p>20 files. Is that right?</p> <p>21 A Yes.</p> <p>22 Q And you did not review the case file</p>	<p style="text-align: right;">Page 45</p> <p>1 had asked -- my question earlier was, did you</p> <p>2 review the case files of the other six children,</p> <p>3 and you -- I believe you said you did not. Is that</p> <p>4 right?</p> <p>5 A Correct.</p> <p>6 Q Did you review the reports that</p> <p>7 Ms. Popchak and Ms. Getman wrote regarding their</p> <p>8 review of the case files?</p> <p>9 A No.</p> <p>10 Q And you wrote the sections in the</p> <p>11 executive summary on investigations and</p> <p>12 pre-placement, which is pages 5 through 11. Is</p> <p>13 that right?</p> <p>14 A Yes, with input from my colleagues.</p> <p>15 Q And you also wrote the section</p> <p>16 headed, "The casework practice that was documented</p> <p>17 in these records raises serious concerns regarding</p> <p>18 the knowledge and skills of frontline workers and</p> <p>19 supervisors" on pages 32 to 34?</p> <p>20 A Let me just look at that.</p> <p>21 Q Sure.</p> <p>22 A I had -- I think I did a first draft.</p>

<p style="text-align: right;">Page 50</p> <p>1 of expertise and background and experiences.</p> <p>2 BY MS. SMITH:</p> <p>3 Q But you don't actually know that that</p> <p>4 sentence on page 7, about Serena and Theo, you</p> <p>5 don't know that that's factual, correct?</p> <p>6 MS. MAHONEY: Objection.</p> <p>7 THE WITNESS: I did not review that</p> <p>8 case file to verify it myself.</p> <p>9 BY MS. SMITH:</p> <p>10 Q Isn't it true that there are dozens</p> <p>11 of similar sentences in this executive summary for</p> <p>12 which you didn't verify yourself?</p> <p>13 MS. MAHONEY: Can I interrupt for a</p> <p>14 second? You're breaking up.</p> <p>15 (Discussion had off the record.)</p> <p>16 BY MS. SMITH:</p> <p>17 Q Okay.</p> <p>18 A So you're asking whether there are, I</p> <p>19 think as you put it -- so maybe you could say the</p> <p>20 question again, please.</p> <p>21 Q Sure.</p> <p>22 So isn't it true that there are</p>	<p style="text-align: right;">Page 52</p> <p>1 BY MS. SMITH:</p> <p>2 Q Had you worked with Ms. Getman or</p> <p>3 Ms. Popchak before you worked with them on this</p> <p>4 report?</p> <p>5 A Ms. Getman, no. Ms. Popchak, I knew</p> <p>6 her in the '90s. She was -- I don't know if she</p> <p>7 was a worker or a supervisor at that time. More</p> <p>8 recently I worked with her in my consulting role</p> <p>9 with On the Frontline and worked with her on an</p> <p>10 initial -- an initial review of the fatality panel</p> <p>11 that I chaired in Cuyahoga County.</p> <p>12 Q Did you know that you would be</p> <p>13 working together on this project?</p> <p>14 MS. MAHONEY: Objection.</p> <p>15 THE WITNESS: At what -- I don't -- I</p> <p>16 don't -- at what point?</p> <p>17 BY MS. SMITH:</p> <p>18 Q You didn't -- you didn't -- you</p> <p>19 didn't ask for her to be brought on. Is that</p> <p>20 right, to work on this project?</p> <p>21 A No. No.</p> <p>22 MS. SMITH: So we've been going for</p>
<p style="text-align: right;">Page 51</p> <p>1 dozens of similar sentences in this executive</p> <p>2 summary that you did not verify that they were</p> <p>3 accurate because they were in the case files of the</p> <p>4 other six children?</p> <p>5 MS. MAHONEY: Objection. Vague.</p> <p>6 Confusing.</p> <p>7 THE WITNESS: The three of us</p> <p>8 reviewed, as you know, each -- we each reviewed</p> <p>9 three cases. We collectively put this report</p> <p>10 together based on each of our experiences. And so</p> <p>11 yes, we did not personally review nine case files.</p> <p>12 BY MS. SMITH:</p> <p>13 Q And so because you didn't personally</p> <p>14 review nine case files, you don't have personal</p> <p>15 knowledge of the accuracy of the statements in the</p> <p>16 executive summary about the files that you did not</p> <p>17 review?</p> <p>18 MS. MAHONEY: Objection. Asked and</p> <p>19 answered.</p> <p>20 THE WITNESS: I have relied, and I</p> <p>21 think quite well, relied well, on the -- what my</p> <p>22 colleagues have brought to this report.</p>	<p style="text-align: right;">Page 53</p> <p>1 about an hour, is now a good time for a break?</p> <p>2 MS. MAHONEY: That's fine with me.</p> <p>3 Ms. Flory, is that okay with you?</p> <p>4 THE WITNESS: That's good.</p> <p>5 MS. SMITH: All right. So can we</p> <p>6 take a ten-minute break?</p> <p>7 THE WITNESS: Sure.</p> <p>8 MS. SMITH: Okay. So we can come</p> <p>9 back at 10:11 a.m.</p> <p>10 (Recess from 10:02 a.m. to 10:14 a.m.)</p> <p>11 BY MS. SMITH:</p> <p>12 Q Okay. So you, Ms. Getman, and</p> <p>13 Ms. Popchak applied reasonable professional</p> <p>14 standard in the child welfare field in conducting</p> <p>15 your reviews and writing the report. Is that</p> <p>16 right?</p> <p>17 A Yes.</p> <p>18 Q And when we spoke with Ms. Getman and</p> <p>19 Ms. Popchak, they said that the 20 or so themes</p> <p>20 that you identified in the executive summary</p> <p>21 reflect the reasonable professional standard that</p> <p>22 satisfied as concerns in the nine case files.</p>

<p style="text-align: right;">Page 54</p> <p>1 Do you agree with that?</p> <p>2 A I do.</p> <p>3 Q So we didn't have time to go over all</p> <p>4 of the themes with Ms. Getman and Ms. Popchak, so I</p> <p>5 would like to go over them with you now. Could you</p> <p>6 please turn to the first theme, which is on page 5?</p> <p>7 Okay. So on page 5, the theme says,</p> <p>8 "The reviewed case records -- the reviewed case</p> <p>9 records reflect a lack of critical thinking</p> <p>10 throughout the investigation and assessment</p> <p>11 process." Is that right?</p> <p>12 A Yes.</p> <p>13 Q Is that theme based on any written</p> <p>14 federal guideline?</p> <p>15 A I think you will not find a specific</p> <p>16 federal guideline about critical thinking, but I</p> <p>17 think that in the field, this area of critical</p> <p>18 thinking is a major, major issue for all of public</p> <p>19 child welfare and, frankly, for all the social work</p> <p>20 field.</p> <p>21 Q What do you mean by "major issue"?</p> <p>22 A There is a lot of work being done</p>	<p style="text-align: right;">Page 56</p> <p>1 got two stories here, or more than two stories."</p> <p>2 Q So would you say that this is based</p> <p>3 on your experiences in the child welfare field?</p> <p>4 A Yes.</p> <p>5 Q And is there any written standard</p> <p>6 that you would say that this is based on?</p> <p>7 A Well, there's a great deal of</p> <p>8 academic work about critical thinking. It's not</p> <p>9 all specific to child welfare, but in my work with</p> <p>10 On the Frontline, and particularly with ShadowBox,</p> <p>11 which I don't think -- I won't go into a whole lot,</p> <p>12 we are working to infiltrate critical thinking more</p> <p>13 heavily into both the training and the daily</p> <p>14 practice of caseworkers.</p> <p>15 Q So it sounds like this is an area</p> <p>16 that's still developing?</p> <p>17 MS. MAHONEY: Objection. Misstates</p> <p>18 testimony.</p> <p>19 THE WITNESS: It's an area that's</p> <p>20 developing in child welfare. And as I said, it's</p> <p>21 not new in other domains.</p> <p>22</p>
<p style="text-align: right;">Page 55</p> <p>1 about the way in which large systems work and</p> <p>2 bureaucracies work. And that's not just in child</p> <p>3 welfare. That the training and the way in which</p> <p>4 workers do their work is to learn the rules, and</p> <p>5 that large systems then rely on adherence to rules</p> <p>6 that can be measured quantitatively by data.</p> <p>7 That leaves out the very essence of</p> <p>8 what is expected and is taught, but then not</p> <p>9 implemented often or -- or routinely -- I should</p> <p>10 say routinely, not often -- not implemented</p> <p>11 routinely in that the coddling together and the --</p> <p>12 particularly in the investigative side of things</p> <p>13 of, "Okay. I've heard this story, now I've heard</p> <p>14 her story and the two don't jive. What do I do</p> <p>15 with this," rather than simply recording, "Well,</p> <p>16 mom said this, the child said this, and maybe a</p> <p>17 teacher or somebody else said something else."</p> <p>18 And there's no attempt to think</p> <p>19 through actually a problem-solving process. And --</p> <p>20 and we found many, many examples of conflicting</p> <p>21 information being given, but never dealt with.</p> <p>22 There was no attempt to say, "Wait a minute. We've</p>	<p style="text-align: right;">Page 57</p> <p>1 BY MS. SMITH:</p> <p>2 Q But besides the literature on</p> <p>3 critical thinking, there's not any kind of</p> <p>4 published child welfare standard that you're basing</p> <p>5 this theme on. Would you agree?</p> <p>6 MS. MAHONEY: Objection.</p> <p>7 THE WITNESS: Well, I think there are</p> <p>8 plenty of professional standard kind of guidance</p> <p>9 documents that talk about this, whether it's called</p> <p>10 critical thinking or not. And I believe that your</p> <p>11 own West Virginia policies really lay out a good</p> <p>12 foundation for this kind of work. And it's not</p> <p>13 really -- it's developing in some ways, in other</p> <p>14 ways it's like it was always expected that as a</p> <p>15 part of an investigation, you dig to find out</p> <p>16 what's going on. And that's what we did not see in</p> <p>17 these cases.</p> <p>18 BY MS. SMITH:</p> <p>19 Q So I didn't see a citation to the</p> <p>20 critical thinking guidelines. Are those ACS</p> <p>21 guidelines that you are referring to?</p> <p>22 MS. MAHONEY: Objection. Asked and</p>

<p style="text-align: right;">Page 62</p> <p>1 BY MS. SMITH:</p> <p>2 Q Okay. So let's -- what documents are</p> <p>3 you referring to?</p> <p>4 MS. MAHONEY: Objection. I don't</p> <p>5 believe the witness testified she was referring to</p> <p>6 any specific document in the context of reasonable</p> <p>7 professional standards.</p> <p>8 THE WITNESS: I think that we did not</p> <p>9 have time, nor were we asked, to review the</p> <p>10 totality of documents that supported our themes.</p> <p>11 These were from our collected experience and our</p> <p>12 agreed-upon observations of the cases that we saw.</p> <p>13 And these themes reflect what we know about the</p> <p>14 field and what we know from our -- our collected</p> <p>15 experience.</p> <p>16 BY MS. SMITH:</p> <p>17 Q So I guess my question is: If I</p> <p>18 wanted to look up what reasonable professional</p> <p>19 standards are in the child welfare field, where</p> <p>20 would I find documents that has those?</p> <p>21 MS. MAHONEY: Objection.</p> <p>22 THE WITNESS: I think you would start</p>	<p style="text-align: right;">Page 64</p> <p>1 THE WITNESS: I think I said in</p> <p>2 several different ways, there is -- there -- how we</p> <p>3 arrived at these themes, what we used to arrive</p> <p>4 with and in the scope of what we were asked to do.</p> <p>5 We did not do a research paper on the totality and</p> <p>6 the origin of the conclusions that we reached.</p> <p>7 BY MS. SMITH:</p> <p>8 Q So I'm not asking for a -- what the</p> <p>9 totality of the conclusions are and what the</p> <p>10 background research is. I'm just trying to figure</p> <p>11 out what the laws and regulations and state laws</p> <p>12 that these themes that you have come up with are --</p> <p>13 what they're based on.</p> <p>14 MS. MAHONEY: Objection. Asked and</p> <p>15 answered.</p> <p>16 THE WITNESS: I feel like I already</p> <p>17 answered that. And I don't have more to add.</p> <p>18 BY MS. SMITH:</p> <p>19 Q So you don't -- you can't point to</p> <p>20 any federal law or regulation or city law that</p> <p>21 these themes were based on?</p> <p>22 MS. MAHONEY: Objection. Asked and</p>
<p style="text-align: right;">Page 63</p> <p>1 with the federal law. I think you would look at</p> <p>2 regulations. I think you would look at documents</p> <p>3 state by state that give training and guidance.</p> <p>4 And it will vary from state to state where those</p> <p>5 documents are and how -- how complete they are, and</p> <p>6 how current they are with the current kind of</p> <p>7 thinking that's going on these days in child</p> <p>8 welfare.</p> <p>9 BY MS. SMITH:</p> <p>10 Q So that's what I'm trying to figure</p> <p>11 out, which federal laws, which federal regulations</p> <p>12 are these themes based on?</p> <p>13 MS. MAHONEY: Objection. I also just</p> <p>14 want to note that the witness has testified that</p> <p>15 she's basing -- part of these things are based upon</p> <p>16 her experience.</p> <p>17 THE WITNESS: I'm not able to answer</p> <p>18 your question.</p> <p>19 BY MS. SMITH:</p> <p>20 Q Why not?</p> <p>21 MS. MAHONEY: Objection.</p> <p>22 Argumentative.</p>	<p style="text-align: right;">Page 65</p> <p>1 answered. And objection. Misstates prior</p> <p>2 testimony.</p> <p>3 Ms. Flory, you can answer.</p> <p>4 THE WITNESS: I have nothing else to</p> <p>5 add to this.</p> <p>6 BY MS. SMITH:</p> <p>7 Q Sorry, I missed that. My computer</p> <p>8 just broke up. What did you say?</p> <p>9 A I have nothing else to add to things</p> <p>10 that I previously said.</p> <p>11 Q Okay. Let's turn to the next theme</p> <p>12 then on page 8. "In the reviewed cases, accounts</p> <p>13 of an investigation/assessment were often</p> <p>14 incomplete, with missing determinations, and</p> <p>15 recorded out of chronological order."</p> <p>16 What's the foundation for this theme?</p> <p>17 A Our review of the cases where we</p> <p>18 could not follow from one action to the next, where</p> <p>19 there were reports that had missing determinations</p> <p>20 and -- and investigation conclusions that were</p> <p>21 filed months apart, which is, in any reasonable</p> <p>22 professional standard, not good practice. Because</p>

<p style="text-align: right;">Page 66</p> <p>1 if there are concerns about the safety or the risk</p> <p>2 of harm to a child, you're leaving that child in</p> <p>3 that situation until you decide or until somehow</p> <p>4 these reports came to some conclusion.</p> <p>5 Q So when you say "for any reasonable</p> <p>6 professional standard not in good practice," is</p> <p>7 that based on your experience?</p> <p>8 A Absolutely.</p> <p>9 Q Is that based -- go ahead.</p> <p>10 A And it's also based on -- in every</p> <p>11 state, in every jurisdiction, there are specific</p> <p>12 regulations about the length of time that cases</p> <p>13 should take and different actions within an</p> <p>14 investigation of a case, how long they should take.</p> <p>15 Q And what are West Virginia's</p> <p>16 regulations on that?</p> <p>17 A I'm not recalling exactly, but I did</p> <p>18 have that -- it -- it's within -- it certainly is</p> <p>19 not seven or eight months apart, but it's within</p> <p>20 reasonable lengths of time. And there are</p> <p>21 different -- there are different time frames for</p> <p>22 different pieces of the report of an investigation.</p>	<p style="text-align: right;">Page 68</p> <p>1 incidents to try to reconstruct what had happened</p> <p>2 to a particular child. That's how I ended up</p> <p>3 making sense of it.</p> <p>4 Q Would it have been helpful for you to</p> <p>5 interview the caseworkers involved in these cases?</p> <p>6 A That would have been another dynamic</p> <p>7 or another element of what we were asked to do.</p> <p>8 Q Did you ask if you could speak with</p> <p>9 any caseworkers?</p> <p>10 A I'm sorry, am I frozen or are you</p> <p>11 frozen?</p> <p>12 Q I think you're frozen on my screen.</p> <p>13 MS. MAHONEY: Yes, you're frozen on</p> <p>14 my screen as well.</p> <p>15 THE WITNESS: Am I -- is it me? Can</p> <p>16 you hear me?</p> <p>17 MS. SMITH: I can hear you now.</p> <p>18 THE WITNESS: Okay.</p> <p>19 MS. MAHONEY: Can you repeat the</p> <p>20 question, please?</p> <p>21 BY MS. SMITH:</p> <p>22 Q I had asked if it would be helpful</p>
<p style="text-align: right;">Page 67</p> <p>1 Q So you didn't have any concerns with</p> <p>2 West Virginia's regulations in this area?</p> <p>3 A They seemed in line with other</p> <p>4 systems that I am aware of.</p> <p>5 Q So your concerns are whether or not</p> <p>6 those regulations were complied with?</p> <p>7 I'm sorry. You just froze, I'm not</p> <p>8 sure --</p> <p>9 A Yes. Yes, to that specific issue,</p> <p>10 timelines were not adhered to. But I think in this</p> <p>11 theme, we also talk about the state of the records</p> <p>12 themselves, it was very, very difficult to piece</p> <p>13 together the different elements of an investigation</p> <p>14 or conclusions of a report. It was impossible in</p> <p>15 most of these cases to follow along and to</p> <p>16 understand what the trajectory and what the time</p> <p>17 frames and what the compliance was.</p> <p>18 Q So despite that it was almost</p> <p>19 impossible to do so, you were still able to draw</p> <p>20 these conclusions from the case file?</p> <p>21 A Personally, I had stickies all over</p> <p>22 my bedroom wall with the dates of specific</p>	<p style="text-align: right;">Page 69</p> <p>1 for you to interview caseworkers to help you figure</p> <p>2 out what went on in this case. And I didn't hear,</p> <p>3 I think you had said -- just -- you cut out when</p> <p>4 you answered that question.</p> <p>5 A Okay. Interviewing caseworkers would</p> <p>6 have added another dynamic to this report that</p> <p>7 is -- that was beyond the scope of what we were</p> <p>8 asked to do. I -- I would say because I have --</p> <p>9 it's -- it was clear to me that if a caseworker</p> <p>10 were looking at these records, a new caseworker</p> <p>11 assigned to a case as I did, they would have great,</p> <p>12 great difficulty figuring out what the history was</p> <p>13 and what the trajectory of a family was within the</p> <p>14 system as well.</p> <p>15 Q And did you -- did you -- strike</p> <p>16 that.</p> <p>17 So are you aware of how West Virginia</p> <p>18 caseworkers review case records in their day-to-day</p> <p>19 work?</p> <p>20 A Specifically, no, I am not aware of</p> <p>21 how that happens. I can -- I could only see how</p> <p>22 the record was organized or not organized that I</p>

<p style="text-align: right;">Page 74</p> <p>1 this theme is based on your review of the case</p> <p>2 records, but I'm actually asking, when you were</p> <p>3 reviewing the case records, how did you make</p> <p>4 conclusions about what you were reviewing to come</p> <p>5 up with the theme?</p> <p>6 What -- is the theme -- what did you</p> <p>7 rely on in making conclusions about the case</p> <p>8 records related to this theme?</p> <p>9 MS. MAHONEY: Objection. Vague.</p> <p>10 Confusing. Asked and answered.</p> <p>11 THE WITNESS: I don't know how to</p> <p>12 make this clearer, but in a record, if I read that</p> <p>13 there were collateral sources who had information</p> <p>14 or who were cited in the case record, but then</p> <p>15 there either is no information about any interviews</p> <p>16 or any information that they provided, which was in</p> <p>17 some cases.</p> <p>18 Or there is information from</p> <p>19 collateral sources, but it is -- and it directly</p> <p>20 is relevant to the safety and the risk of harm to</p> <p>21 a child, but it's not used in any way to draw</p> <p>22 conclusions, you know, that's how we reached this</p>	<p style="text-align: right;">Page 76</p> <p>1 research about all of the sources of the reasonable</p> <p>2 professional standards that we saw.</p> <p>3 Q I understand you weren't citing all</p> <p>4 of the sources, but I'm trying to figure out if</p> <p>5 there are any written sources that you relied on?</p> <p>6 MS. MAHONEY: Objection. Asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: I'm not a researcher,</p> <p>9 I'm not an academic. I have been in this field for</p> <p>10 over 40 years, and there are things that I know</p> <p>11 that at one time I did read all that information.</p> <p>12 But at this point in my career, these are things</p> <p>13 that I -- I accept as basic principles about the</p> <p>14 way in which child welfare cases should be</p> <p>15 conducted. And that was used in these reports.</p> <p>16 BY MS. SMITH:</p> <p>17 Q And did Ms. Getman and Ms. Popchak</p> <p>18 rely on the -- rely on the same reasonable</p> <p>19 professional standard?</p> <p>20 MS. MAHONEY: Objection.</p> <p>21 THE WITNESS: We thoroughly discussed</p> <p>22 every one of these and we agreed -- we have</p>
<p style="text-align: right;">Page 75</p> <p>1 theme. Because we saw it over and over and over</p> <p>2 again in different kinds of ways.</p> <p>3 BY MS. SMITH:</p> <p>4 Q So where would I find that</p> <p>5 professional standard on collateral contacts?</p> <p>6 MS. MAHONEY: Objection. Asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: Yeah, this one you're</p> <p>9 going to find in textbooks about child welfare and</p> <p>10 how to conduct an investigation.</p> <p>11 BY MS. SMITH:</p> <p>12 Q And when you said you saw this theme</p> <p>13 over and over again, do you mean that you saw it</p> <p>14 over and over again in these nine case files?</p> <p>15 A Yes.</p> <p>16 Q And did you cite to any of those</p> <p>17 textbooks on collateral context in the theme?</p> <p>18 A Clearly not.</p> <p>19 Q And why not?</p> <p>20 A For the same reason that I gave on</p> <p>21 the other themes, I -- I, we, were not writing a</p> <p>22 document that did -- that included thorough</p>	<p style="text-align: right;">Page 77</p> <p>1 different backgrounds and we have different</p> <p>2 experiences, but we agreed on these themes based on</p> <p>3 our review of the nine cases.</p> <p>4 BY MS. SMITH:</p> <p>5 Q And Ms. Popchak reviewed her own</p> <p>6 cases using her professional experiences, correct?</p> <p>7 MS. MAHONEY: Objection. Asked and</p> <p>8 answered.</p> <p>9 THE WITNESS: Yes.</p> <p>10 BY MS. SMITH:</p> <p>11 Q And the same with Ms. Getman?</p> <p>12 MS. MAHONEY: Objection.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MS. SMITH:</p> <p>15 Q Okay. The next theme is on page 9.</p> <p>16 It says, "The reviewed cases exhibited a failure by</p> <p>17 DHHR to access key components of any alleged</p> <p>18 abuse." And what is the foundation for this?</p> <p>19 MS. MAHONEY: Same objection.</p> <p>20 THE WITNESS: What's the foundation?</p> <p>21 I'm sorry, the foundation for our theme or the</p> <p>22 foundation for our conclusion?</p>

<p style="text-align: right;">Page 174</p> <p>1 Q To confirm, you did not interview</p> <p>2 anyone involved with either Anastasia's case,</p> <p>3 Karter's case, and Dennis' case, correct?</p> <p>4 MS. MAHONEY: Objection. Asked and</p> <p>5 answered.</p> <p>6 THE WITNESS: I did not interview</p> <p>7 anyone, correct.</p> <p>8 BY MS. SMITH:</p> <p>9 Q And you didn't otherwise speak to</p> <p>10 anyone else involved in their case?</p> <p>11 MS. MAHONEY: Objection. Asked and</p> <p>12 answered.</p> <p>13 THE WITNESS: I did not.</p> <p>14 BY MS. SMITH:</p> <p>15 Q Did you have any reservations about</p> <p>16 drawing conclusions on these case records based on</p> <p>17 your limited review?</p> <p>18 A No. As has been stated, I was hired</p> <p>19 to do a case review, which I did. I was also --</p> <p>20 part of that was looking at themes and patterns</p> <p>21 across not just my cases, but with my colleagues</p> <p>22 across the nine cases. And remarkably we pretty</p>	<p style="text-align: right;">Page 176</p> <p>1 systemic issues, I think that a case review gives</p> <p>2 you a very, very good beginning sense of what is</p> <p>3 happening, not just with that case, but potentially</p> <p>4 can point you to where there are other issues that</p> <p>5 go beyond that one case, one or two cases.</p> <p>6 Q Do you think interviews are</p> <p>7 unnecessary to accurately evaluate a case file?</p> <p>8 A Well, again, I was contracted to</p> <p>9 review the case record, first and foremost. This</p> <p>10 was not an overall review of every single factor</p> <p>11 that might impact on the veracity of what we found,</p> <p>12 but, of course, an interview would add some</p> <p>13 information. Some of it might be useful and some</p> <p>14 of it might not be useful, some of it might be</p> <p>15 redundant. There are other things, including</p> <p>16 interviews, to do if you were doing an overall</p> <p>17 system review.</p> <p>18 Q What other kinds of things would you</p> <p>19 do for an overall system review?</p> <p>20 MS. MAHONEY: Objection. Asked and</p> <p>21 answered.</p> <p>22 THE WITNESS: Well, I think you would</p>
<p style="text-align: right;">Page 175</p> <p>1 much quickly found that there were very common</p> <p>2 themes in all of these nine cases.</p> <p>3 Q Did either Ms. Getman or Ms. Popchak</p> <p>4 express any reservations about basing their reviews</p> <p>5 on just the case records?</p> <p>6 A I'm not remembering any.</p> <p>7 Q Do you have an opinion as to whether</p> <p>8 reviewing a case record is sufficient to</p> <p>9 understanding a particular case?</p> <p>10 MS. MAHONEY: Objection. Confusing.</p> <p>11 THE WITNESS: Do you want to ask the</p> <p>12 question again?</p> <p>13 BY MS. SMITH:</p> <p>14 Q Is it your opinion -- do you have an</p> <p>15 opinion if reviewing a case record is enough to</p> <p>16 understand a particular case?</p> <p>17 A Given my experience, as I talked</p> <p>18 about it earlier, and particularly as I think about</p> <p>19 my experience with the process of ChildStat in New</p> <p>20 York City, looking at only two cases out of</p> <p>21 thousands of cases every week, and then using those</p> <p>22 case reviews as a springboard to look at potential</p>	<p style="text-align: right;">Page 177</p> <p>1 look at the context within which a case existed,</p> <p>2 you would look at data, you would look at a number</p> <p>3 of things about how the system operated.</p> <p>4 BY MS. SMITH:</p> <p>5 Q And you didn't do that here?</p> <p>6 MS. MAHONEY: Objection. Asked and</p> <p>7 answered.</p> <p>8 THE WITNESS: Okay. I -- I sort of</p> <p>9 think this is a bit unfair. I was asked to do a</p> <p>10 task based on my background and my experience, I</p> <p>11 did that.</p> <p>12 BY MS. SMITH:</p> <p>13 Q I believe you testified earlier that</p> <p>14 this is not an academic paper. Is that right?</p> <p>15 A Yes. No, I believe I testified that</p> <p>16 I'm not an academic or a researcher.</p> <p>17 Q Oh.</p> <p>18 A That was not the purpose of this</p> <p>19 paper for these reviews.</p> <p>20 Q You published papers in books before,</p> <p>21 right?</p> <p>22 A A few, very few.</p>